

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

RON DERECK BURNETT,
Petitioner,

VS.

COLE JETER, Warden,
FCI-Fort Worth,
Respondent.

§
§
§
§
§
§
§

CIVIL ACTION NO.4:05-CV-397-Y

ORDER ADOPTING
MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Ron Dereck Burnett under 28 U.S.C. § 2241, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on November 28, 2005; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on December 21, 2005.

The Court, after de novo review, concludes that Burnett's objections must be overruled, that the motion to dismiss should be granted, and that the petition for writ of habeas corpus under 28 U.S.C. § 2241 should be dismissed for lack of jurisdiction, for the reasons stated in the magistrate judge's findings and conclusions.¹

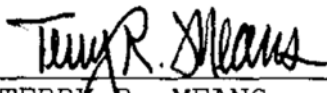
Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

¹The Court notes that since the magistrate judge's report, the Court of Appeals for the Fifth Circuit has expressly held that the holding in *United States v. Booker*, 543 U.S. 220 (2005) is a procedural rule that does not fall into either of the two exceptions for non-retroactivity set out in *Teague v. Lane*, 489 U.S. 288 (1989), with the resulting holding that *Booker* is not retroactive on collateral review. See *United States v. Gentry*, No.04-11221, 2005 WL 3317891 at **2-6 (5th Cir. December 8, 2005).

Respondent Jeter's September 20, 2005, motion to dismiss [docket no. 7] is GRANTED.

Ron Dereck Burnett's petition for writ of habeas corpus under 28 U.S.C. § 2241 is DISMISSED for lack of jurisdiction.

SIGNED January 5, 2006.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

